



Department of Justice

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FOR IMMEDIATE RELEASE

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November 10, 2010 _____

[Plattsburgh, New York]—United States Attorney Richard S. Hartunian announced today that MICHAEL MARTIN SMITH was sentenced on Monday in Albany, New York, by United States District Judge Thomas J. McAvoy, in a federal firearms case.

SMITH, age 45, of Upper Jay, New York, was sentenced to 21 months imprisonment, with 15 months to run concurrent, and 6 months to run consecutive, to the 1 1/3 to 4 year state sentence ordered by Hon. Richard B. Meyer, Essex County Court Judge, Elizabethtown, on September 16, 2010, after a jury trial conviction of criminally negligent homicide. The cases arose out of an incident on November 15, 2008, in which SMITH, while hunting with others in Essex County, in the State and Northern District of New York, shot and killed Leo Hickey. SMITH pled guilty in the federal case on April 14, 2010, to possession of a firearm by a person prohibited to do so by virtue of misdemeanor domestic violence convictions. At the federal sentencing, SMITH claimed that he should be entitled to a sentence reduction because he possessed the high-powered rifle, purchased from his father, for “lawful sporting purposes.” Judge McAvoy, noting that he, himself, is a life-long hunter, rejected SMITH’s argument, however, and determined that the Essex County jury’s guilty verdict warranted not only rejection of the lawful sporting purposes reduction, but also an increase under the federal sentencing guidelines for SMITH’s possession of a firearm in the commission of another felony offense.

U.S. Attorney Hartunian praised the cooperative investigations by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the New York State Police’s Troop B Bureau of Criminal Investigation and Gun Crimes Unit, and the New York State Department of Environmental

Conservation, as well as the prior prosecution by the Essex County District Attorney's Office, Elizabethtown, and victim services provided by the New York Office of Victim Services and the New York State Police's Troop B.

Any questions may be directed to Assistant U.S. Attorney Elizabeth Horsman, Plattsburgh, 518-314-7800.